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From:

Sent: Monday, August 31, 2009 10:45:33 AM

To:

Cc:

Subject: RE: TEFRA questions on ATAT case

TEFRA applies to any entity that is required to file a U.S. partnership return (IRC 6231(a)) or any entity that does, in fact, file a partnership return (IRC 6233) as long as the partnership does not qualify as a "small partnership" excluded from TEFRA under section 6231(a)(1)(B).

You are correct that a partnership does not qualify as a small partnership excluded from TEFRA if any partner is a flow through entity (including disregarded entity partners). Rev. Rul 2004-88.

[REDACTED]

[REDACTED]

Treas. Reg. 1.6031(a)-1 generally requires the filing of a Form 1065 if the entity has U.S. sourced or effectively connected income.

The election to be taxed as a partnership does not necessarily resolve any of the above issues.